

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

Suits Naming the Tennessee Clinic)
Defendants)
_____)

**TENNESSEE CLINIC DEFENDANTS' MOTION FOR LEAVE TO FILE REPLY RE:
MOTION TO COMPEL COMPLIANCE WITH SUBPOENA TO NECC [DKT. 2190]**

Defendants Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John Culclasure, MD; Debra Schamberg, RN; Vaughan Allen, MD; Specialty Surgery Center, Crossville, PLLC; Kenneth R. Lister, MD; Kenneth Lister, MD, PC; and Donald E. Jones, MD (collectively "Tennessee Clinic Defendants") move for permission to file a three-page reply to the Trustee's Response to the Tennessee Clinic Defendants' Motion to Compel Compliance with Subpoena to NECC.¹

For their Motion, the Tennessee Clinic Defendants state:

1. On April 17, 2015, the Tennessee Clinic Defendants issued a subpoena for the production of documents to NECC.

¹ The motion and memorandum in support are at Dkts. 2190 and 2191. The Trustee's Response is at Dkt. 2227.

2. On August 25, 2015, the Tennessee Clinic Defendants moved to compel NECC to comply with the document subpoena. Among other things, the Tennessee Clinic Defendants sought production of an index of the documents produced to date by NECC, which will hopefully assist in determining what relevant documents have and have not been produced.

3. On September 8, 2015, the Trustee filed a response to the motion to compel. In the response, the Trustee plainly stated to the Court that: "Indices identifying the Bates-stamp ranges of documents responsive to each informal request for production of documents were uploaded into the Repository prior to April 17, 2015, the date of service of the Subpoena, and are therefore available to the Tennessee Clinic Defendants." Dkt. 2227 at 7.

4. However, no such indices (or informal requests for production) have been produced.

5. The Tennessee Clinic Defendants seek the Court's permission to file a brief three-page reply to address only this most recent inaccurate statement from the Trustee.

6. The proposed reply is attached as an exhibit to this motion. The Trustee refused to consent to the filing of the reply.

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 5th day of October, 2015.

/s/ Chris J. Tardio

Chris J. Tardio